

## Maryjane Kenney

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**From:** Schnorr, Thomas [TSchnorr@eapdlaw.com]  
**Sent:** Monday, April 09, 2007 3:12 PM  
**To:** Dore' Hunter; Board of Selectmen; Manager Department  
**Cc:** Szalai, Marcella  
**Subject:** RE: Article 39 Acton Town Meeting

I hadn't focused on the current state of case law dealing with what amounts to a moratorium on wireless facilities, so I'll get back to you later today with my thoughts. The "old" rule was that a reasonably short moratorium (i.e., months as opposed to years or indefinite in duration) was okay as long as it was truly for the purpose of studying bylaw revisions and town policy.

*Tom Schnorr*

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**From:** DoreHunter@aol.com [mailto:DoreHunter@aol.com]  
**Sent:** Monday, April 09, 2007 2:53 PM  
**To:** bos@acton-ma.gov; manager@acton-ma.gov  
**Cc:** Schnorr, Thomas  
**Subject:** Article 39 Acton Town Meeting

Don,

I am inclined to ask the Board tonight to authorize me to make the motions under Article 39 which are copied in below, and for format reasons also attached to this message.

I suggest that it might be a good idea to check with our substitute Town Counsel as to his views on the law in this regard. It may well be that my idea of putting the matter over to the Fall of 2007, after some balanced discussion of the matter, may be thought to conflict with reasonable time to decide limitation contained in the TCA of 1976, a matter I have not had time to research.

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**Two Potential Motions in re:**

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**Article 39 "Cellular Towers in Residential and School Areas"**

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4/9/2007

Mr. Hunter moves that so much of Article 39 as is set out in the paragraph in the Warrant that is numbered 1.2 be amended by:

A. Substituting the word “required” in lieu of the word “requested” in the last sentence of the original text,

and

B. Adding another three sentences to 1.2 which are: “The Board of Selectmen is hereby directed to form a committee to study the present Zoning Bylaw Article 37 “Wireless Communication Facilities” and propose improvements thereto, which are compatible with the provisions of the Federal Telecommunications Act of 1996, including, without limitation, language most likely to result in adequate separation of wireless communications facilities (so called Cell Towers) from residences, schools, and other locations. Such committee is to present its report prior to a Special Town Meeting to be called by the Board of Selectmen before the end of 2007. Pending the receipt of the committee’s report the Planning Board is to be directed to not accept any applications for construction of new wireless communications facilities.”

The text of paragraph 1.2, if so amended, would then read as follows:

“The Board of Selectmen is hereby directed to form a committee to study the present Zoning Bylaw Article 37 ‘Wireless Communication Facilities’ and propose improvements thereto, which are compatible with the provisions of the Telecommunications Act of 1996, including, without limitation, language most likely to result in adequate separation of wireless communications facilities (so called Cell Towers) from residences, schools, and other locations. Such committee is to present its report prior to a Special Town Meeting to be called by the Board of Selectmen before the end of 2007. Pending the receipt of the committee’s report the Planning Board is to be directed to not accept any applications for construction of new wireless communications facilities.”

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[Upon passage of the foregoing Motion by the Meeting, the following additional Motion will be offered:]

Mr. Hunter moves that the Meeting’s consideration of the remainder of the text of Article 39 not addressed in my prior Motion be postponed indefinitely.

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Regards,  
Dore' Hunter  
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4/9/2007

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